

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RODRIQUEZ HARRIS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:18CV2072HEA
)	
BRETT HAYS, et al.,)	
)	
Defendants.)	

DEFENDANT’S ANSWER
AND AFFIRMATIVE DEFENSES

Defendant Cody Bennett (“Defendant”), by and through counsel, hereby responds to the Complaint by Plaintiff Rodriquez Harris (“Plaintiff”) as follows:

COMPLAINT

The contents of this paragraph do not comprise any allegations which require a denial. To the extent any response is required, Defendant denies same.

NATURE OF THE CASE

1. The allegations in this paragraph are legal conclusions, which do not require a response. To the extent this paragraph asserts any allegations against Defendant, he denies same. Further, Defendant denies that Plaintiff is entitled to any of the relief sought, and denies any remaining allegations in Paragraph 1.

PARTIES, JURISDICTION, AND VENUE

2. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
3. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
4. Defendant admits he has been employed as a correctional officer I at ERDCC and that Hays has been his supervisor. The remaining allegations in this paragraph are legal conclusions, which do not require a response. To the extent this paragraph asserts any further allegations against Defendant, he denies same.
5. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
6. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
7. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
8. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
9. Defendant admits Precythe is the director of the MDOC, but is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

10. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
11. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
12. The allegations in this paragraph are legal conclusions, which do not require a response. To the extent this paragraph asserts any allegations against Defendant, he denies same.
13. The allegations in this paragraph are legal conclusions, which do not require a response. To the extent this paragraph asserts any allegations against Defendant, he denies same.
14. The allegations in this paragraph are legal conclusions, which do not require a response. To the extent this paragraph asserts any allegations against Defendant, he denies same.
15. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

FACTUAL BACKGROUND

A. History of the Defendant Correctional Officers and ERDCC

16. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
17. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

18. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
19. Defendant admits that Steele has been the Warden at ERDCC, but is without knowledge or information sufficient to form a belief as to whether he was during “the events alleged herein” and so, denies same.
20. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

Brett Hays’s History While Working for the MDOC

21. Defendant admits that Hays was a correctional officer I at Southeast Correctional Center (“SECC”) in Charleston, Missouri, but is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.
22. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
23. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
24. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
25. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
26. Defendant is without knowledge or information sufficient to form a belief as

to the allegations in this paragraph and so, denies same.

27. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

28. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

29. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

30. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

31. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

32. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

33. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

34. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

35. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

36. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

37. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
38. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
39. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
40. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
41. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
42. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
43. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
44. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

Bennett's History at MDOC

45. Defendant admits the allegations contained in this paragraph of Plaintiff's complaint.
46. Defendant admits he pled guilty in cause 14PR-CR00295, but denies that he made a false statement or pled guilty to "making a false statement about

doing so.”

47. Defendant admits the allegations contained in this paragraph of Plaintiff’s complaint.

48. Defendant admits he transferred to ERDCC on April 16, 2017 but denies the remaining allegations in this paragraph of Plaintiff’s complaint.

49. Defendant denies the allegations contained in this paragraph of Plaintiff’s Complaint.

50. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

Mayes’ History at MDOC

51. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

52. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

53. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

54. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

55. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

B. Plaintiff's History at ERDCC and the Events in Question

56. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
57. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
58. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
59. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
60. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
61. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
62. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.
63. Defendant denies he harassed Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.
64. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.
65. Defendant is without knowledge or information sufficient to form a belief as

to the allegations in this paragraph and so, denies same.

66. Defendant denies he harassed Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

67. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

68. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

69. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

70. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

71. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

72. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

73. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

74. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

75. Defendant is without knowledge or information sufficient to form a belief as

to the allegations in this paragraph and so, denies same.

76. Defendant denies that he assaulted Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

77. Defendant admits that Plaintiff covered his cell window on February 7, 2018. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

78. Defendant admits that Plaintiff covered his cell camera and refused directives to uncover same, which contributed to the decision to utilize a planned use of force. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

79. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

80. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

81. Defendant admits the allegations in this paragraph of Plaintiff's complaint.

82. Defendant admits that Plaintiff was confined to wrist restraints and handcuffed. Defendant denies the remaining allegations in this paragraph of Plaintiff's Complaint.

83. Defendant admits that Plaintiff was in handcuffs, but denies the remaining

allegations contained in this paragraph of Plaintiff's complaint.

84. Defendant admits that Plaintiff was brought to the ground by Defendant Hays. Defendant denies the remaining allegations contained in this paragraph of Plaintiff's complaint.

85. Defendant admits that Plaintiff resisted directives to turn over on his stomach by Hays. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

86. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

87. Defendant admits Plaintiff was in handcuffs. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

88. Defendant denies he assaulted Plaintiff. Defendant is without knowledge or information regarding what was "caught on videotape" and, therefore, denies the remaining allegations in this paragraph of Plaintiff's complaint.

89. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

90. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

91. Defendant is without knowledge or information sufficient to form a belief as

to the allegations in this paragraph and so, denies same.

92. Defendant admits Phillip Anderson was a correctional officer III. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

93. Defendant is without knowledge or information regarding the allegations in this paragraph of Plaintiff's complaint and, therefore, denies the same.

94. Defendant admits that Roy Eldridge was a correctional officer, but is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

95. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

96. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

97. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

98. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

99. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

100. Defendant denies that he beat Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in

this paragraph and so, denies same.

101. Defendant denies that he beat Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

102. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

103. Defendant denies that he beat Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

104. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

105. Defendant denies that he beat Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in this paragraph and so, denies same.

106. Defendant states that MDOC's policies and procedures are the best proof of their contents. Defendant is currently without knowledge or information regarding the remaining allegations in this paragraph of Plaintiff's complaint and, therefore, denies the same.

107. Defendant is without knowledge or information sufficient to form a belief as to the allegations in this paragraph and so, denies same.

108. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

109. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

110. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

111. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

112. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

113. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

114. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

115. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

116. Defendant is without knowledge or information sufficient to form a belief

as to the allegations in this paragraph and so, denies same.

117. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

118. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

CAUSES OF ACTION

**COUNT I: CRUEL AND UNUSUAL PUNISHMENT
(HAYS)**

119 - 125. Count I is not directed at Defendant Bennett, and he therefore makes no response thereto. To the extent a response is required by any part of Count I, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count I.

**COUNT II: CRUEL AND UNUSUAL PUNISHMENT
(MAYES, BENNETT)**

126. Defendant incorporates his previous responses as if fully set forth herein.

127. This paragraph is a legal conclusion to which no response is required.

128. Defendant is without knowledge or information regarding the allegations in this paragraph of Plaintiff's complaint and, therefore, denies the same.

129. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

130. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

131. Defendant denies the allegations contained in this paragraph of Plaintiff's complaint.

132. The allegations in this paragraph are legal conclusions to which no response is required. To the extent a response is required, Defendant denies same.

133. Defendant denies the allegations contained in this paragraph of Plaintiff's

complaint.

Defendant denies that Plaintiff is entitled to any and all relief sought in Count II.

**COUNT III: CRUEL AND UNUSUAL PUNISHMENT
(STEELE, SMALLEN, DOES)**

134 - 137. Count III is not directed at Defendant Bennett, and therefore he makes no response thereto. To the extent a response is required by any part of Count III, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count III.

**COUNT IV: 1ST AMENDMENT RETALIATION
(MAYES, DOES)**

138 - 143. Count IV is not directed at Defendant Bennett, and therefore he makes no response thereto. To the extent a response is required by any part of Count IV, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count IV.

**COUNT V: FAILURE TO TRAIN/SUPERVISE
(PRECYTHE, STEELE, PAYNE)**

144 - 155. Count V is not directed at Defendant Bennett, and therefore he makes no response thereto. To the extent a response is required by any part of Count V, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count V.

**COUNT VI: ASSAULT
(HAYS)**

156 - 160. Count VI is not directed at Defendant Bennett, and therefore he makes no response thereto. To the extent a response is required by any part of Count VI, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count VI.

**COUNT VII: BATTERY
(HAYS)**

161 - 165. Count VII is not directed at Defendant Bennett, and therefore he makes no response thereto. To the extent a response is required by any part of Count VII, Defendant denies same. Further, Defendant denies that Plaintiff is entitled to any and all relief sought in Count VII.

PRAYER FOR RELIEF

Defendant denies that Plaintiff is entitled to any of the requested relief listed in the Complaint, including this section and all subparts.

JURY DEMAND

Defendant demands a jury trial on all issues triable to a jury.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff's Complaint fails to state a claim upon which relief can be granted and should be dismissed under Fed. R. Civ. P. 12(b)(6).

Second Affirmative Defense

Defendant is protected from liability and suit by the doctrine of qualified

immunity because any and all actions taken by him in regard to Plaintiff Harris were appropriate, given his own actions and history, and done under the reasonable and good faith belief that said actions were constitutional.

Third Affirmative Defense

Plaintiff's claim for punitive damages against Defendant is barred by the Constitution and statutes of the United States and State of Missouri.

Fourth Affirmative Defense

Defendant is entitled to Official Immunity and the protections of the Public Duty Doctrine because his actions were discretionary and performed pursuant to official duties owed to the public.

Fifth Affirmative Defense

To the extent any damages sustained by Plaintiff Harris were the result of acts or omissions by himself and/or other parties, Defendant asserts the defenses of contributory negligence and comparative fault where applicable.

Sixth Affirmative Defense

Defendant incorporates by reference each and every additional affirmative defense that may be uncovered or made known during investigation and discovery in this case, and specifically reserve the right to amend their Answer to assert any such affirmative defenses upon discovery.

Respectfully submitted,

ERIC S. SCHMITT

Attorney General

/s/ Justin C. Moore

Justin C. Moore, Mo Bar # 65057

Assistant Attorney General

Missouri Attorney General's Office

P.O. Box 861

St. Louis, MO 63188

Phone: (314) 340-7861

Fax: (314) 340-7029

Email: Justin.Moore@ago.mo.gov

Attorney for Defendant Bennett

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of February, 2019, I electronically filed the foregoing with the Clerk of the Court using the Missouri Courts Electronic Filing System which sent notice to:

J. Andrew Hirth
TGH Litigation LLC
913 East Ash Street
Columbia, MO 65201
andy@tghlitigation.com

Michael S. Foster
Foster Wallace, LLC
1501 Westport Road
Kansas City, MO 64111
Michael@fosterwallace.com

/s Justin C. Moore

Assistant Attorney General